

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawaii 96813

January 13, 2023

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

SUBJECT: REQUEST FOR ADAPTIVE MANAGEMENT MEASURES BY FORMAL BOARD ACTION PURSUANT TO SECTION 183D-3(b), HAWAII REVISED STATUTES, TO TEMPORARILY AMEND HAWAII ADMINISTRATIVE RULES (HAR) TITLE 13 CHAPTER 123 - RULES REGULATING GAME MAMMAL HUNTING, BY AMENDING EXHIBIT 1 AS REFERENCED IN HAR SECTIONS 13-123-3 (AUTHORIZED HUNTING), 13-123-4 (BAG LIMITS, OPEN SEASONS, AND HUNTING DAYS), 13-123-22 (CONDITIONS AND RESTRICTIONS), AND 13-123-23 (USE OF TAGS), FOR GAME MAMMALS TO BE TAKEN ON THE ISLAND OF KAUA'I, TO CHANGE OPEN HUNTING DAYS IN UNIT F FROM FOUR DAYS A WEEK AND STATE HOLIDAYS TO SEVEN DAYS A WEEK (DAILY).

### **SUMMARY**

The Department of Land and Natural Resources ("Department") Division of Forestry and Wildlife ("DOFAW") requests the Board of Land and Natural Resources ("Board") take formal board action to approve adoption of a temporary administrative rule change to Exhibit 1 in Chapter 13-123, Hawai'i Administrative Rules (HAR), "Rules Regulating Game Mammal Hunting", under the authority of HRS § 183D-3(b). The amendment would open hunting days for feral goats, feral pigs, and black-tailed deer taken in Unit F on Kaua'i by allowing for hunting seven days per week (daily) to limit populations of these game mammals which have been impacting Kaua'i's natural resources. Increasing hunting opportunities should curtail game populations back to sustainable numbers.

### **ADMINISTRATIVE RULEMAKING AUTHORITY**

The Department, through DOFAW, is charged to manage and administer the wildlife and wildlife resources of the State, enforce all laws relating to protecting, taking, hunting, killing, propagating, or increasing the wildlife within the State; regulate lands set apart as game management areas and public hunting areas; and must preserve, protect, and promote public hunting. HRS § 183D-2. DOFAW regulates game mammal hunting statewide through Chapter 13-123, HAR.

In 2021, the Hawai'i Legislature authorized the Department to conduct adaptive management measures other than by Chapter 91 rulemaking, if it timely adopts, amends, or repeals any rule pertaining to bag limits, size limits, open or closed hunting seasons, or gear restrictions by formal board action at a publicly noticed meeting in necessary response to rapidly changing resource conditions. HRS § 183D-3(b). To do so the Board must give notice of the rulemaking:

- (1) at least once statewide at least 30 days in advance of the public meeting;
- (2) include a statement of the topic of the proposed rule or a general description of the subjects involved;
- (3) include a statement that a copy of the proposed rule will be mailed to any interested person who requests a copy and pays the required fees for the copy and postage, if any, together with a description of where and how the requests may be made;
- (4) include a statement of when, where, and during what times the proposed rule may be reviewed;
- (5) include the date, time and place where the public meeting will be held and where interested persons may be heard on the proposed rule; and
- (6) mail to all persons who have made a timely written request of the Board for advance notice of its rulemaking proceedings.

If adopted, the new rule would be effective for an initial period of no longer than two years and be subject to legislative approval and renewal by the Board; provided that the renewal by the Board shall extend for up to one year at a time. If adopted, proposed rules become effective ten (10) days after the board action, unless a later date is specified in the proposed rule. Final rules are to be posted on DOFAW's website (at <https://dlnr.hawaii.gov/dofaw/rules/>) for the duration of their validity. All rules adopted through the adaptive management process are subject to administrative penalties provided in HRS § 183D-12.

## **NOTICE**

Public notice of this rulemaking was given by DOFAW on November 20, 2022, through the Star Advertiser and StarAdvertiser.com, West Hawaii Today and WestHawaiiToday.com, Hawaii Tribune and HawaiiTribune.com, and Garden Isle and GardenIsle.com.

## **BACKGROUND**

High populations of feral mammals (goats, pigs, deer) have persisted on Kaua'i despite attempts in prior years to reduce those populations by allowing a muzzleloader control hunt for one year and allowing two months of muzzleloader hunts. Goats, pigs, and deer are prolific breeding mammals that do not require restrictions in open hunting days to persist in large numbers, so restricting hunter access is not necessary in most cases. In discussions with Kaua'i hunters, the current population of feral goats, pigs, and deer in Unit F should stop increasing and become sustainable if additional hunting days are

added. In addition, Unit F will benefit from curtailed mammal damage to natural resources (i.e. loss of vegetation, increase in soil erosion, other consequential changes to habitat from animal activities). Currently, means of take within Unit F are limited to archery and muzzleloaders<sup>1</sup> to balance hunter safety with game mammal population control. The purpose of these proposed amendments is that by increasing the number of days for authorized hunting (open hunting days), hunters will have additional flexibility in hunting days to remove deleterious game mammal species and the increasing damage to natural resources will be reduced.

### **PROJECT DESCRIPTION – Requirement of Adaptive Management Measures**

DOFAW has determined that the high populations of feral goats, pigs, and deer in Unit F on Kaua'i requires implementation of adaptive management measures in response to rapidly changing conditions; and requests that the Board find amending Exhibit 1 of Chapter 13-123, HAR, is necessary because the number of feral goats, pigs, and deer in Unit F is a resource condition requiring a necessary temporary administrative rule change, using Board authority under HRS § 183D-3. HAR sections 13-123-3, 13-123-4, 13-123-22, and 13-123-23 each reference Exhibit 1, which in turn provides regulations in Unit F for game mammals to be taken, means of take, bag limits, open hunting periods, open hunting days, and special conditions and restrictions. Current open hunting days for feral goats, pigs, and deer in Unit F are Fridays, Saturdays, Sundays, Mondays, and state holidays – effectively four to five days per week. The proposed rule would open hunting days to seven days per week. If approved, these proposed amendments would be effective for two years beginning ten days after the date of the Board's approval.

Unit F on the island of Kaua'i covers approximately 3,079 acres and consists of state-owned land within Waimea Canyon lying east of Highway 550, south of Units K and B, west of the six hundred foot contour, and north of a line due west of Waimea "Obake" Swinging Bridge. HAR § 13-123-15(g) (2015). See Figure 1.

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<sup>1</sup> Means of take by dog and knife are permitted only during February through May.

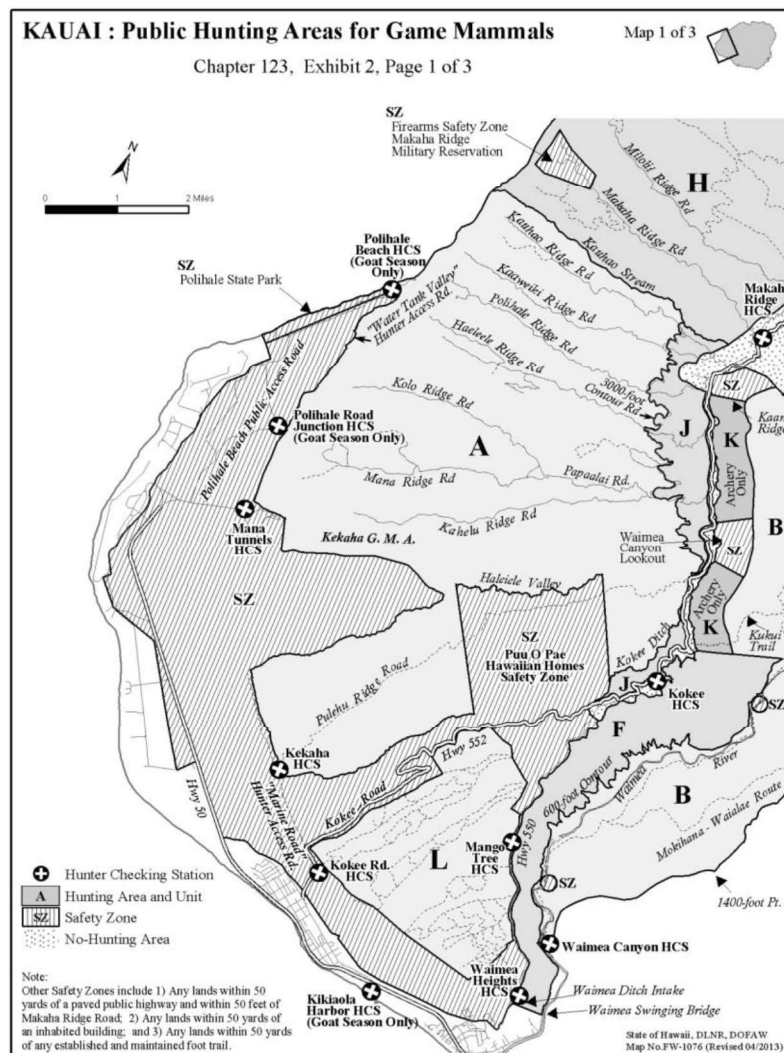


Figure 1: Exhibit 2 to Chapter 13-123, HAR, p.1 of 3.

The current administrative rules for hunting in Unit F on Kaua'i are shown in Exhibit 1, "Game mammals to be taken, means of take, daily bag limits, hunting periods, hunting days, and special conditions for hunting on the island of Kauai" located at the end of Chapter 13-123, HAR. See Table 1. Proposed adaptive management rules will be posted on DOFAW's website (at <https://dlnr.hawaii.gov/dofaw/rules/>) for the duration of their validity. See Attachment 1.

Table 1: Current administrative rules showing changes for Unit F in strikethrough text to be incorporated in Exhibit 1 of Chapter 13-123, HAR.

Hunting Unit	Game Mammals to be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit F	Feral goats and feral pigs.	Archery or dog and knife only*/1	One pig and two goats per hunter per day	February through May	<del>Fridays, Saturdays, Sundays, Mondays, and State Holidays</del> Daily	Hunting with firearms prohibited.
		Archery only. Dogs not permitted.	One pig and two goats per hunter per day	July through August		Limited to hunters with valid goat archery permits. Hunting with firearms prohibited.
		Muzzleloaders only. Dogs not permitted.	One pig and two goats per hunter per day	January and June		Permit required */4
	Black-tailed deer, feral goats, and feral pigs.	Archery only. Dogs not permitted.	One deer of either sex per hunter per license year. One pig and two goats per hunter per day.	September through December	<del>Fridays, Saturdays, Sundays, Mondays, and State Holidays</del> Daily	Hunting with firearms prohibited. Permit/tag required. */4

\*/1 Dogs must be kept under control at all times except when actively pursuing game.

\*/4 Hunters must obtain a permit from the Lihue Division of Forestry and Wildlife Office prior to hunting. Game permit-tag fees may be assessed for these hunts.

## **RECOMMENDATION**

That the Board

1. Find based on the above that appropriate adaptive management measures need to be instituted to address the rapidly changing population of deer, goats, and pigs in Unit F on Kaua'i to address increasing habitat degradation; and
2. Approve and temporarily amend the Division of Forestry and Wildlife Rules Regulating Game Mammal Hunting, Title 13 Chapter 123, HAR, by amending Exhibit 1 to administrative rules for regulating hunting in Unit F on Kaua'i to increase recreational hunting from four days per week and state holidays to seven days per week (daily) using the authority of HRS § 183D-3(b).

Respectfully submitted,



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David G. Smith, Administrator  
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL



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Dawn N.S. Chang, Chairperson  
Board of Land and Natural Resources

Attachment 1: Proposed adaptive management rule changes to be incorporated in Exhibit 1 of Chapter 13-123, HAR.

The adoption of these rules shall take effect ten days after this formal action by the Board of Land and Natural Resources ("Board") (January 23, 2023), and shall be effective for no longer than two years, subject to legislative approval and renewal by the Board; provided that renewal by the Board shall be extended for up to one year at a time. These rules shall be posted on the Division of Forestry and Wildlife's website, where they will remain for the duration of the time the rules are in effect.

These rules are subject to administrative penalties as provided by section 183D-12, HRS.

Hunting Unit	Game Mammals to be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit F	Feral goats and feral pigs.	Archery or dog and knife only*/1	One pig and two goats per hunter per day	February through May	Daily	Hunting with firearms prohibited.
		Archery only. Dogs not permitted.	One pig and two goats per hunter per day	July through August		Limited to hunters with valid goat archery permits. Hunting with firearms prohibited.
		Muzzleloaders only. Dogs not permitted.	One pig and two goats per hunter per day	January and June		Permit required */4
	Black-tailed deer, feral goats, and feral pigs.	Archery only. Dogs not permitted.	One deer of either sex per hunter per license year. One pig and two goats per hunter per day.	September through December	Daily	Hunting with firearms prohibited. Permit/tag required. */4

\*/1 Dogs must be kept under control at all times except when actively pursuing game.

\*/4 Hunters must obtain a permit from the Lihue Division of Forestry and Wildlife Office prior to hunting.

Game permit-tag fees may be assessed for these hunts. Unit G permits are limited to 30 permits per day on a first come-first served basis. A camping permit from the Division of State Parks is required for over night trips in Unit G.

Exhibit 1. Game mammals to be taken, means of take, daily bag limits, hunting periods, hunting days, and special conditions for hunting on the island of Kauai.

Hunting Unit	Game Mammals To Be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit A	Feral pigs	Rifles, shotguns, muzzleloaders, or archery. Dogs not permitted.	One pig per hunter per day	February through May	Saturdays, Sundays and State Holidays	Dogs not permitted. Permit Required */[4] 4*/6
	Feral goats and feral pigs	Archery only Dogs not permitted.*	Two goats and one pig per archery hunter per permit.	First full weekend in June	Saturdays and Sundays only	Dogs not permitted. Permit/tag required */4*/6
		Muzzleloaders only. Dogs not permitted.	One goat per hunter per muzzleloader tag issued. One pig per hunter per day.	Second full weekend in June		Dogs not permitted. Limited to youth, senior citizen, and disabled hunters only. Permit/tag required */4 (No lottery)
		Muzzleloaders only. Dogs not permitted.	Two goats per rifle/ muzzleloader tag issued. One pig per hunter per day.	Third full weekend in June through August; two weekends issued per hunter		Dogs not permitted. Hunting dates assigned by public lottery. Permit/tag required. */2 */3
	Black-Tailed deer	Muzzleloaders only. Dogs not permitted.	One antlered buck (fork horn or better) per hunter per license year.	First full weekend in September	Saturdays and Sundays only	Permit/tag required */4*/6 (No lottery)
		Rifle season: rifles, shotguns, muzzleloaders, or archery permitted. Dogs not permitted.		Seven consecutive weekends including and preceding the last full weekend in October		Hunting dates assigned by public lottery. */2 */3 Permit/tag required.



Hunting Unit	Game Mammals To Be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit B	Feral pigs	Rifles, muzzleloaders, handguns and archery. Dogs are permitted */1	One pig per hunter per day.	Year-round	Fridays, Saturdays, Sundays, Mondays, and State Holidays	
	Feral goats and feral pigs	Rifles, muzzleloaders, shotguns, handguns or archery.	Two permit-tags issued per hunter; two goats per permit-tag. One pig per hunter per day.	May through August.		Permit/tag required */2 */3 Hunting dates assigned by public lottery. */2
	Black-tailed deer and Feral pigs	Muzzleloaders only	One deer of either sex per muzzleloader tag per license year. One pig per hunter per day.	First full weekend in September		Permit required */4
	Black-tailed deer and Feral pigs	Rifles, muzzleloaders, archery or handguns. Dogs are permitted. */1	One deer of either sex per rifle tag per hunter license year. One pig per hunter per day.	Second weekend in September through October		Permit/tag required. */3 Hunting dates assigned by public lottery. */2
Unit C	Feral pigs	Rifles, shotguns, muzzleloaders, handguns, archery or dogs and knives*/1	Two pigs per hunter per day	Year-round	Fridays, Saturdays, Sundays, Mondays, and State Holidays	
	Feral goats		No limit			
Unit D Kokee State Park	Feral pigs	Archery or dog and knife only*/1	Two pigs per hunter per day	January through May	Saturdays, Sundays and State Holidays	Hunting with firearms prohibited
	Black-tailed deer and Feral pigs	Archery only. Dogs not permitted.	One deer of either sex Two pigs per hunter per day.	June through August		
		Archery and dog and knife only*/1		September through December		
Unit E1	Feral goats and feral pigs, and black-tailed deer	Rifles, shotguns, muzzleloaders, handguns, archery, or dogs and knives*/1	Two animals per hunter per day, any combination	Year round	Friday through Monday And State Holidays	Annual permit required. */4

Hunting Unit	Game Mammals To Be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit E2	Feral goats and feral pigs, and black-tailed deer	Rifles, shotguns, muzzleloaders, handguns, or archery. Dogs permitted	Two animals per hunter per day, any combination	Year round	Daily	Annual permit required. */4
Unit F	Feral goats and feral pigs	Archery or dog and knife only*/1	One pig and two goats per hunter per day	February through May	Fridays, Saturdays, Sundays, Mondays, and State Holidays	Hunting with firearms prohibited
		Archery only. Dogs not permitted.	One pig and two goats per hunter per day	July through August		Limited to hunters with valid goat archery permits. Hunting with firearms prohibited
		Muzzleloaders only. Dogs not permitted.	One pig and two goats per hunter per day	January and June		Permit required */4
	Black-tailed deer, feral goats, and feral pigs.	Archery only. Dogs not permitted.	One deer of either sex per hunter per license year. One pig and two goats per hunter per day.	September through December	Fridays, Saturdays, Sundays, Mondays, and State Holidays	Hunting with firearms prohibited. Permit/tag required. */4
Unit G Na Pali Coast State Park	Feral goats and feral pigs	Archery only. Dogs not permitted.	No limit	Year-round	Daily - three day permits	Permit/tag required. */4 Area is a State Park. Firearms not permitted, except during special hunts. All access and permit conditions subject to landowner approval.
Unit H	Feral goats and feral pigs, and black-tailed deer	Rifles, muzzleloaders, shotguns, handguns, archery or dogs and knives. Dogs are permitted. */1	Two animals per hunter per day, any combination	December through July	Friday through Monday and State Holidays	Annual permit required. */4

Hunting Unit	Game Mammals To Be Taken	Means of Take	Bag Limits	Open Hunting Periods	Open Hunting Days	Special Conditions and Restrictions
Unit H, cont.	Feral goats and feral pigs, and black-tailed deer	Rifles, muzzleloaders, shotguns, handguns, or archery. Dogs not permitted.	Two animals per hunter per day, any combination	August through November	Friday through Monday and State Holidays	Annual permit required. */4
Unit J	Feral pigs	Archery only. Dogs not permitted.	Two pigs per hunter per day	January through August	Saturdays, Sundays and State Holidays	State Park, firearms not permitted. Permit not required.
	Black-tailed deer and Feral pigs	Archery only. Dogs not permitted.	Two pigs and one deer of either sex per hunter per day	September through December.	Saturdays, Sundays and State Holidays	Firearms not permitted. Permit/tag required for deer. */4
Unit K	Feral goats and feral pigs	Archery only. Dogs not permitted.	One pig and two goats per hunter per day	July through August (See annual goat rifle season instructions for specific hunting days)	Saturdays, Sundays and State Holidays.	Goat archery permit required. */4 Firearms not permitted.
	Feral goats and feral pigs, and black-tailed deer		One pig and two goats per hunter per day. One deer of either sex per archery hunter per license year.	September through December. (See annual deer season instructions for specific hunting days)		Deer archery permit-tag required. */4 Firearms not permitted.
Unit L Waimea Heights Special Hunting Area	Feral pigs & black-tailed deer	Archery only. Dogs not permitted.	One pig per hunter per day. One deer of either sex per archery hunter per license year.	July to August (See annual deer season instructions for specific hunting days)	Saturdays and Sundays only	Deer archery permit/tag required. */4*/6 Firearms not permitted.
		Muzzleloaders only. Dogs not permitted.	One deer of either sex per muzzleload hunter. per license year One pig per hunter per day.	September to October (See annual deer season instructions for specific hunting days)		Deer muzzleloader permit/tag required. */4*/6 Hunting dates assigned by public lottery.

\*/1 Dogs must be kept under control at all times except when actively pursuing game.

\*/2 Pig hunting is restricted to goat or deer hunters possessing valid rifle or muzzleloader goat or deer permit/tags on their assigned hunting date month before the open season.

\*/3 Hunters must apply for permits. Applications are available two months before the open season. Applicants are assigned hunting dates by lottery one month before the open season. Game tag fees are assessed for this hunt.

- \* /4 Hunters must obtain a permit from the Lihue Division of Forestry and Wildlife Office prior to hunting. Game permit-tag fees may be assessed for these hunts. Unit G permits are limited to 30 permits per day on a first come-first served basis. A camping permit from the Division of State Parks is required for over night trips in Unit G.
- \* /5 Hunters must obtain a permit from the Lihue Division of Forestry and Wildlife office prior to hunting. Hunting dates are determined by State Parks during park closure periods. Please call the Lihue DOFAW office at 808-274-3433 for more information.
- \* /6 Hunting access and public use conditions in portions of Unit A and Unit L are subject to landowner/lessee approval. Confirm with the Lihue Division of Forestry and Wildlife Office before hunting at 808-274-3433.